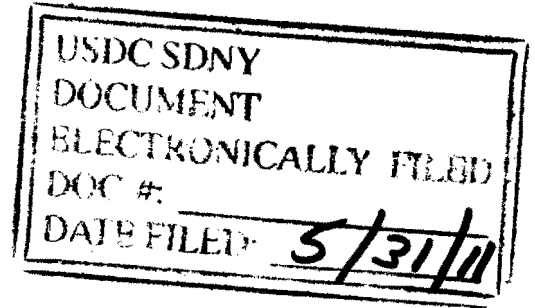


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----X
STEPHANIE FREUND LERNER,

Plaintiff,

-against-

LAURA DRAGER, as Justice of the Supreme
Court, State of New York, County of New York,

Defendant.
-----X

10 Civ. 7928 (RJH)(FM)

ORDER

On April 18, 2011, Magistrate Judge Frank Maas issued a Report and Recommendation (the "Report") recommending that the Court grant Justice Drager's motion to dismiss the complaint and deny Lerner's motion to file an amended complaint based on the *Younger* abstention doctrine, the Eleventh Amendment, absolute judicial immunity, and 42 U.S.C. § 1983's prohibition on injunctive relief against a judicial officer for an act taken in the officer's judicial capacity.

A district court may designate a magistrate judge to hear and determine certain motions and to submit to the court proposed findings of fact and a recommendation as to the disposition of the motions. *See* 28 U.S.C. § 636(b)(1). Within fourteen days of service of the recommendation, any party may file written objections to the magistrate judge's report. *Id.* In evaluating the report, the court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*

The district court adopts a Magistrate Judge's report and recommendation when no clear error appears on the face of the record. *See Nelson v. Smith*, 618 F. Supp. 1186,

1189 (S.D.N.Y. 1985). If a party objects to the report and recommendation, however, the court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see, e.g., Jackson v. Goord*, 664 F. Supp. 2d 307, 310 (S.D.N.Y. 2009). “If, however, the party makes only conclusory or general objections, or simply reiterates his original arguments, the Court reviews the Report and Recommendation only for clear error.” *Silva v. Peninsula Hotel*, 509 F. Supp. 2d 364, 366 (S.D.N.Y. 2007) (citations and internal quotation marks omitted).

Here, Lerner wrote a letter to the Court dated April 27, 2011, and attached a copy of her “Emergency Order to Show Cause which details everything with evidentiary support.” (Letter of Stephanie Lerner to the Court dated April 27, 2011 (“Lerner Letter”) at 2.) The letter does not make any legal objections to any portion of the Report, but instead argues that Justice Drager has “violated the law,” is “participating in unlawful and bias [sic] behavior,” and “will do anything to not have the millionaire Defendant pay anything,” which are the same arguments she made before Judge Maas.¹ (Lerner Letter at 1-3; *compare* Report at 3 (“Lerner’s federal complaint and papers in opposition to Justice Drager’s motion to dismiss describe a laundry list of alleged wrongs perpetrated by Justice Drager, all of which arise out of her handling of the Lerner’s divorce case.”).) Accordingly, because Lerner merely reiterates her original arguments and does not object to any specific portion of the Report, the Court reviews the Report for clear error.

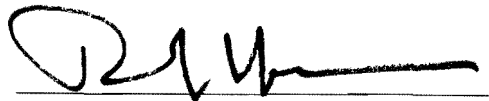
Having reviewed the Report and finding no clear error on the face of the record, the Court adopts the Report in full. Justice Drager’s motion to dismiss [5] is GRANTED,

¹ Indeed, her only mention of the Report is to allege further wrongdoing by Justice Drager; namely, discussing the Report in open court. (Lerner Letter at 1, 2.)

Lerner's motion to amend [12] is DENIED, and the Clerk of the Court is requested to close this case.

SO ORDERED.

Dated: New York, New York
May 27, 2011

A handwritten signature in black ink, appearing to read 'R. J. Holwell', written over a horizontal line.

Richard J. Holwell
United States District Judge